



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/174043

PRELIMINARY RECITALS

Pursuant to a petition filed May 4, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regards to prior authorization under Medical Assistance (MA) for personal care worker services, a hearing was held on May 25, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner's appeal is moot because the Department granted the full prior authorization for personal care worker service hours requested by her home health care provider.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

Written Appearance By: [REDACTED] R.N., Nurse Consultant
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She is certified as eligible for MA.

2. On or about April 26, 2016, the petitioner's home health agency, Preferred Home Care LLC of Milwaukee, Wisconsin, filed a prior authorization request with the Wisconsin Department of Health Services - Office of Inspector General ("DHS-OIG"), requesting coverage of 22 hours per week of personal care worker (PCW) services, with a start date of May 7, 2016, and lasting for 53 weeks.
3. On May 3, 2016, the DHS-OIG approved the requested hours of PCW services and the 53 week time period with a start date of May 7, 2016, exactly as requested by Preferred Home Care LLC.
4. On May 4, 2016, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the approval granted by the DHS-OIG and requesting instead the amount of 31.5 hours per week (4.5 hours per day x 7 days per week), as she asserted she had been receiving in some past approval time period.

DISCUSSION

The instant appeal is moot. The Department has granted in full the PA Request made on the petitioner's behalf by her home health provider. The Department has not taken any negative action against the petitioner, and there is no negative action or refusal to make payment on behalf of a MA recipient. **The Department has granted her request, not denied or modified it. It can do no more.** See, also, Wis. Admin. Code, DHS §§ 104.01(5)(a), (b). The petitioner may always contact her provider and request that the provider seek an amendment from the Department's OIG at any time in the future, or file a new PA Request, and if the amendment or new request is denied, file a new appeal. In either event, her clinical assessment will have to support the hours requested by the home health agency.

Her appeal is dismissed. The Department of Health Services granted the requested prior approval from a certified medical provider in the full amount sought. The petitioner does not have a right to demand more services at a hearing than she requested via her provider in the prior authorization approval process. The authority of the Division's administrative law judges is limited to the four corners of the law. We do not possess the powers of a court of equity to simply override MA rules and policies as she requests here.

CONCLUSIONS OF LAW

That the Department has granted all of the prior authorization services for personal care worker service hours that the petitioner's home health agency requested in PA/R 2161170085; her appeal is moot as a matter of fact and law.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 10th day of June, 2016

\sKenneth D. Duren, Assistant Administrator
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 10, 2016.

Division of Health Care Access and Accountability